HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

WRIT PETITION No.14633 OF 2006

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Between:

Kuricheti Venkata Subbamma

……Petitioner

And

Government of India, Rep. by its
Secretary, Ministry of Home Affairs (F.F.Wing),
Loknayak Bhavan, Khan Market,
New Delhi and another

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri M.Vijaya Kumar

Counsel for Respondent No.1 : Sri A.Rajasekhar Reddy

Dated: 29-08-2006

In this petition, Smt. Kuricheti Venkata Subbamma has prayed for quashing the decision of the respondents to suspend the payment of family pension payable to her under the Swatantrata Sainik Samman Pension Scheme, 1980 (for short 'the 1980 Scheme'). She has further prayed for issue of a mandamus to the respondents to release the family pension along with arrears.

In the affidavit filed by her, the petitioner has averred that she married Sri K.Nageswar Rao after the death of his first wife. She has further averred that Sri K.Nageswar Rao was sanctioned freedom fighters pension under the 1980 Scheme some time in 1998. After his death on 24-09-1999, family pension was sanctioned to her, but vide communication dated 02-08-2001, the Government of India suspended the payment of family pension in the wake of complaint received with the allegation that late
Sri K.Nageswar Rao was not a freedom fighter within the meaning of the 1980 Scheme and also on the ground that in view of judgment dated 26-06-2001 rendered by Principal Junior Civil Judge, Guntur in I.A No.2418 of 2000 in S.O.P No.26 of 2000, she cannot be treated as a legally wedded wife.

The petitioner has relied on order dated 24-08-2001 passed by the learned Single Judge of this Court in Civil Revision Petition No.3681 of 2001, whereby order dated 26-06-2001 passed by the trial Court i.e. Principal Junior Civil Judge, Guntur in I.A No.2418 of 2000 in S.O.P No.26 of 2000 was suspended and pleaded that the dispute relating to her status as a legally wedded wife of late
Sri K.Nageswar Rao cannot be made a ground for suspending the payment of pension to her by being treated as a dependant of freedom fighter.

In the counter filed by the respondents, reliance has been

placed on order dated 26-06-2001 passed by Principal Junior Civil Judge, Guntur and it has been averred that in the face of categorical finding recorded by the court of competent jurisdiction that Smt.Saraswati Lakshman and five others had been rightly granted succession certificate by being treated as legal representatives of late Sri K.Nageswar Rao, the petitioner cannot be treated eligible for grant of pension under the 1980 Scheme. It has been further averred that decision to suspend the pension payable to the family of late Sri K.Nageswar Rao was taken in view of the complaint received by the Government of India that he was not a freedom fighter. According to the respondents, the matter has been referred to the Government of Andhra Pradesh for verification and appropriate decision will be taken on receipt of reply from the State Government.

Learned counsel for the petitioner relied on the interim order passed by the learned Single Judge in Civil Revision Petition No.3681 of 2001 and argued that once the order passed by the Principal Junior Civil Judge, Guntur has been suspended, the petitioner's right to receive family pension under the 1980 Scheme by being treated as a widow of late Sri K.Nageswar Rao cannot be questioned. He further argued that the decision of the respondents to suspend the family pension is wholly arbitrary, unreasonable and is violative of the petitioner's fundamental right to life guaranteed under Article 21 of the Constitution.

In my opinion, it is not necessary to adjudicate on the legality of the decision taken by the Government of India to suspend the payment of family pension to the legal representatives of late Sri K.Nageswar Rao because as on date, the petitioner cannot be treated as a successor of Sri Nageswara Rao. A reading of order dated 26-06-2001 passed by Principal Junior Civil Judge, Guntur clearly shows that the petitioner's challenge to the succession certificate issued in favour of Smt Saraswati Lakshman and five others was negatived and it was

held that the petitioner cannot be treated as a successor of late Sri K. Nageswara Rao. The mere fact that the High Court has entertained revision petition filed against the order of the trial court and suspended the operation of that order does not, in any manner, affect the validity of succession certificate granted to Smt. Saraswati Lakshman and five others conferring upon the petitioner the status of successor of late Sri K.Nageswar Rao. Therefore, till the adjudication of Civil Revision Petition No.3681 of 2001, the petitioner does not have the locus to question the legality of order passed by the Central Government to suspend payment of family pension to the legal representatives of late Sri K.Nageswar Rao.

For the reasons stated above, the writ petition is dismissed. It is, however, made clear that if the revision petition filed by the petitioner against the order of Principal Junior Civil Judge, Guntur is allowed, then she shall be entitled to resurrect her claim for grant of pension by being treated as a heir of late Sri K. Nageswara Rao.

As a sequel to dismissal of the main petition, WPMP No.18224 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S. SINGHVI, CJ

29-08-2006
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